



Washington, D.C. 20505

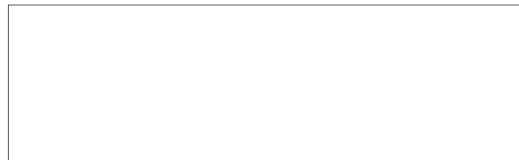
OLL 84-3315
1 August 1984

Mr. James M. Frey
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D.C. 20530

Dear Mr. Frey:

Enclosed is a letter to Representative Romano L. Mazzoli
Chairman Subcommittee on Legislation of the House Permanent
Select Committee on Intelligence, responding to his request
for the views of the Central Intelligence Agency (CIA) on
H.R. 5805, a bill to amend the CIA Retirement Act to provide
benefits to certain qualified former spouses. Your advice is
requested as to whether there is any objection to the
submission of this letter from the standpoint of the
President's program.

Sincerely,



Legislation Division
Office of Legislative Liaison

Enclosure

Distribution:

Original - Addressee
1 - D/OLL
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1 - LEG Subject (Former Spouses)
1 - ROD Signer

OLL:LEG:ROD:sm (1 August 1984)

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Central Intelligence Agency



Washington, D. C. 20505

The Honorable Romano L. Mazzoli
Chairman
Subcommittee on Legislation
Permanent Select Committee on Intelligence
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is in response to your request for the views of the Central Intelligence Agency (CIA) on H.R. 5805, a bill to amend the CIA Retirement Act to provide benefits to certain former spouses. The Director has asked me to respond on his behalf. With the amendments suggested below, the CIA has no objection to the enactment of this legislation.

In enacting the CIA Spouses' Retirement Equity Act of 1982, Congress recognized that retroactive application of this law could affect settled legal rights and consequently limited that statute to prospective application only. We feel that the same potential for interference with completed divorce actions exists in H.R. 5805, which as written would alter the balance of assets already determined by existing spousal support arrangements for divorces prior to 15 November 1982. To minimize this potential we believe that the bill should be modified to reflect that where spousal support has been decreed by a court, the former spouse should be required to elect between benefits under the draft bill or court ordered payments.

We are also concerned with the fairness of the former spouse would receiving a uniform amount (approximately \$7,400 annually) regardless of the size of the participant's annuity. We believe that the lifetime and survivor benefits under the draft bill should not exceed those available to former spouses under the 1982 spousal legislation. This potential inequity could be alleviated by determining the entitlement through the lesser of the \$7,400 figure or the computation of a pro-rata share based on the length of time the spouse is married to the participant during periods of creditable service as provided for in existing law. For example: If married to the

safeguard any information concerning former spouses. The purpose of this provision would be to notify spouses and their attorneys that nothing in this Title may be construed as authorizing the disclosure on the public record of the identity of CIA employees who are under cover. We are prepared to work with your staff to draft language that would achieve this result.

We appreciate the opportunity to present our views on this legislation. The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

Charles A. Briggs
Director, Office of Legislative Liaison

participant for 30 out of the 30 years on which the annuity is based, the former spouse would be entitled to the lesser of \$7,400 or one-half (50 percent) of the participant's annuity; if married to the participant for 15 out of the 30 years on which the annuity is based, the former spouse would be entitled to the lesser of \$7,400 or one-fourth (25 percent) of the participant's annuity.

In introducing this legislation, you indicated that this new benefit for qualified former spouses would be paid out of Treasury funds. However, as presently drafted this bill simply provides an entitlement for the new class of former spouses to receive benefits from the CIA retirement fund. To ensure that these funds are replenished from the Treasury, we suggest that the following amendment be added to this bill:

"SEC. 3. There are authorized to be appropriated from the United States Treasury such funds as are necessary to carry out the purposes of this Act."

We support the health benefit provision of this legislation as a particularly needed benefit for former spouses. However, passage as a part of this bill would present certain cover/security problems centering around the fact that the Agency and possibly State Department would be the only agencies where a former spouse is entitled to such a benefit. Limiting the benefit only to this Agency would tend to highlight such cases and could disclose the Agency affiliation of employees serving a covert status through association with this benefit. A recommended alternative, which we feel would offer more flexibility, would be to incorporate a similar amendment into Chapter 89, Title 5, United States Code for certain former spouses of all Federal employees. The Agency cases would then be less conspicuous. Inclusion of this benefit in Title 5 also would be more beneficial to former spouses by allowing participants to change plans during open season, a point unclear in the proposed bill.

The health benefits provision also requires that the Director of the Office of Personnel Management prescribe procedures designed to provide timely notice of the right of election under this bill to all employees and former employees of the Agency enrolled in a health benefits plan. We believe this provision should be the responsibility of the Director of Central Intelligence since the former spouses, for the most part, are beneficiaries of CIARDS.

Finally, given the potential that the proposed bill offers for disclosure of classified information in litigation, we believe that a provision should be added to this bill to

General Counsel

84-02230

JUL 26 1984

DD/A Registry

84-17561

MEMORANDUM FOR: Director, Office of Legislative Liaison

VIA: Deputy Director for Administration *80* JUL 1984

FROM: Robert W. Magee
Director of Personnel

SUBJECT: Congressman Mazzoli's Request for Agency Views
on H.R. 5805 (Amendment to CIA Retirement Act
to Provide Benefits to Certain Former Spouses)

REFERENCE: Memo to DD/Pers/SP, frm
dtd 18 Jun 84, Same Subject (OLL 84-3100)

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1. This memorandum responds to reference request for our views on proposed CIA Retirement and Disability System (CIARDS) legislation. In enacting the CIA Spouses' Retirement Equity Act of 1982, Congress recognized that retroactive application of this law could affect settled legal rights and consequently limited that statute to prospective application only. We feel that the same potential for interference with completed divorce actions also exists in H.R. 5805, which as written would alter the balance of assets already determined by existing spousal support arrangements for divorces prior to 15 November 1982. To minimize this potential we believe that the bill should be modified to reflect that where spousal support has been decreed by a court, the former spouse should be required to elect between benefits under the draft bill or court ordered payments.

2. Another concern of ours is that under the draft bill, the former spouse would receive a uniform amount (approximately \$7,400 annually) regardless of the size of the participant's annuity. We believe that the lifetime and survivor benefits under the draft bill should not exceed those available to former spouses under the 1982 spousal legislation. This potential inequity could be alleviated by determining the entitlement through the lesser of the \$7,400 figure or the computation of a pro-rata share based on the length of time the spouse is married to the participant during periods of creditable service as provided for in existing law. For example: If married to the participant for 30 out of the 30 years on which the annuity is based, the former spouse would be entitled to the lesser of \$7,400 or one-half (50 percent) of the participant's annuity; if married to the participant for 15 out of the 30 years on which the annuity is based, the former spouse would be entitled to the lesser of \$7,400 or one-fourth (25 percent) of the participant's annuity.

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3. We support the health benefit provision of this legislation as a particularly needed benefit for former spouses. However, passage as a part of this bill would present certain cover/security problems centering around the fact that the Agency and possibly State Department would be the only agencies where a former spouse is entitled to such a benefit. Limiting the benefit only to this Agency would tend to highlight such cases and could disclose the Agency affiliation of employees serving in a covert status through association with this benefit. A recommended alternative, which we feel would offer a little more flexibility, would be to incorporate a similar amendment into Chapter 89, Title 5, U.S. Code for certain former spouses of all Federal employees. The Agency cases would then be less conspicuous and such action could, in general, be more beneficial to former spouses by allowing changes of plans during open season, a point unclear in the proposed bill. We understand such a proposal has already been introduced in the House by Representative Oakar.

4. The health benefits provision also requires that the Director of the Office of Personnel Management prescribe procedures designed to provide timely notice of the right of election under this bill to all employees and former employees of the Agency enrolled in a health benefits plan. We believe this provision should be the responsibility of the Director of Central Intelligence since the former spouses, for the most part, are beneficiaries of CIARDS.

5. We realize that H.R. 5805 was generated by spousal activity on the Hill and employees potentially affected by this legislation have not had an opportunity to present their views to the committee. We thus suggest you advise the committee that we believe such input is important in the consideration of this legislation, and in publishing general information about the bill we have provided employees the opportunity to send their views through this Office to the Office of Legislative Liaison for presentation to Congress.

6. Finally, given the potential that the proposed bill offers for disclosure of classified information in litigation, we believe this is the time to add a provision to this bill to safeguard any information concerning any sections of the law dealing with the right of former spouses. The purpose of this provision would be to notify spouses and their attorneys that nothing in this Title may be construed as authorizing the disclosure on the public record of the identity of CIA employees who are under cover.

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Robert W. Magee